



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 10, 2015

Mr. J. Eric Magee
Counsel for the County of Victoria
Allison, Bass & Magee, L.L.P.
402 West 12th Street
Austin, Texas 78701

OR2015-16447

Dear Mr. Magee:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 574658.

The Victoria County Sheriff's Office (the "sheriff's office"), which you represent, received a request for the employee photos of all employees of the sheriff's office. The sheriff's office states it has released some information. The sheriff's office claims the submitted information is excepted from disclosure under section 552.119 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted representative sample of information.¹

Section 552.119 of the Government Code provides the following:

(a) A photograph that depicts a peace officer as defined by Article 2.12, Code of Criminal Procedure, the release of which would endanger the life or physical safety of the officer, is excepted from [required public disclosure] unless:

(1) the officer is under indictment or charged with an offense by information;

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(2) the officer is a party in a civil service hearing or a case in arbitration; or

(3) the photograph is introduced as evidence in a judicial proceeding.

(b) A photograph excepted from disclosure under Subsection (a) may be made public only if the peace officer gives written consent to the disclosure.

Gov't Code § 552.119. Under section 552.119, a governmental body must demonstrate, if the documents do not demonstrate on their face, that release of the photograph would endanger the life or physical safety of a peace officer. The sheriff's office informs us the officers at issue are part of or could possibly be rotated into the special crimes unit of the sheriff's office. The sheriff's office states the officers at issue have not consented to the public disclosure of their photographs, and the submitted photographs are not subject to subsections (1) through (3) of section 552.119(a). Based on these representations, we agree release of the photographs in group 1 would endanger the lives or physical safety of the peace officers depicted. Therefore, the sheriff's office must withhold the photographs in group 1 under section 552.119. However, we find the sheriff's office has failed to demonstrate release of the photographs in group 2 would endanger the officers' lives or physical safety. Accordingly, the submitted photographs in group 2 may not be withheld under section 552.119 of the Government Code. As the sheriff's office raises no further exceptions against disclosure, the photographs in group 2 must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/som

Ref: ID# 574658

Enc. Submitted documents

c: Requestor
(w/o enclosures)